

Paternity Establishment

A GUIDE TO ADDRESSING FREQUENTLY ASKED QUESTIONS

WHAT IS PATERNITY ESTABLISHMENT?

SPECIAL POINTS OF INTEREST:

Children deserve the love and support of both parents. Even if parents do not live together, they need to cooperate and work together to provide for their children.

The purpose of the child support program is to provide children with the opportunity for a better life. By working with both parents to establish and enforce support orders, the Child Support Program helps children receive the financial and medical support ordered for them.

Ohio's Child Support Program touches more children than any other program in Ohio, except Education.

Formed on January 1, 1988, the Child Support Enforcement Agency is a federal, state, and local partnership empowered by the Social Security Act to locate parents, determine paternity, establish support obligations, and collect child support.

The Ohio CSEA Directors' Association is a professional organization dedicated to strengthening Ohio's Child Support Program.

During the State Fiscal Year of 2002

- Statewide collections in Ohio reached \$1.87 Billion.
- 53,557 paternities were established.
- The total caseload reached 955,597.
- Ohio ranked first in the nation in non-Ohio Works First collections.
- Ohio ranked second in the nation in total IV-D collections distributed.
- County agencies received state and national recognition for enforcement programs, public education and outreach efforts, and excellence in customer service.

Paternity Establishment is the legal determination of fatherhood. Paternity establishment is important for many reasons. For children born outside of marriage, paternity establishment is the essential first step prior to the establishment of a child support or medical support order.

In nearly all areas of the law, establishing paternity grants children born outside of a marriage legal equality with children born during a marriage. With paternity established, medical histories of both parents will be more accessible, and a child will have the ability to obtain financial resources from the father's social security or veteran's benefits.

In addition, it is the right of both the child and the father to have a parental relationship established.

Two ways in which paternity can be established is through presumption or voluntary acknowledgement. Presumed paternity is when a man is presumed to be a child's legal

father because the child is born while the mother is married to the man or because the child is born within 300 days after the marriage ends. There is a long-standing legal presumption that a child born in the context of a marriage is the child of the couple.

If a married mother has conceived a child with someone other than her husband, a private court action would need to be filed in order to establish paternity with the child's biological father. This means that a private attorney, not a Child Support Enforcement Agency Attorney, will need to be consulted, as the services of the Child Support Enforcement Agency cannot be used to establish paternity in this scenario. In other words, legal paternity is already established within the context of a marriage, and the state cannot proceed to disestablish paternity.

Voluntary acknowledgement is when parents acknowledge paternity by completing a notarized form or affidavit at the

hospital, local registrar's office, or the Child Support Enforcement Agency. Child Support Enforcement personnel work with local hospitals to facilitate the completion of the acknowledgements at the hospital when the child is born.

Signing the form, known as an Acknowledgement of Paternity Affidavit, is voluntary. If there is uncertainty about paternity, genetic testing should be requested prior to signing the affidavit. The affidavit cannot be used as an acknowledgement of paternity if another man is legally presumed to be the father due to marriage, as described above, or if there is already an acknowledgement on file.



HOW MIGHT A VOLUNTARY ACKNOWLEDGEMENT BE RESCINDED?

Either parent may rescind the acknowledgement no later than 60 days after the date of the latest signature by:

- Requesting an administrative parentage determination from the Child Support Enforcement Agency in the county in which the child or legal custodian of the child resides, and
- Delivering a written notice to the Ohio Department of Job and Family Services, Office of

Child Support, Central Paternity Registry. The written notice should include the name of the child, the name of the County Child Support Enforcement Agency, and the date the administrative parentage request was made to the county agency.

The Child Support Enforcement Agency will work to determine whether or not there is a parent and child relationship between

the alleged father and the child.

After the 60-day period, the only way for either parent to rescind the acknowledgement is to bring a private court action to rescind. This must be accomplished within one year after paternity was established. Generally speaking, a court action might be brought on the basis of fraud, duress, or material mistake of fact.

HOW IS GENETIC TESTING CONDUCTED AT THE CHILD SUPPORT ENFORCEMENT AGENCY?

Genetic testing is generally conducted with buccal (oral, mouth, or cheek) swabs. The DNA specimen is collected by gently rubbing the cheek inside

of the mouth with long swabs that look like large q-tips. The DNA test utilized with buccal swab specimens is the same DNA test utilized with blood

specimens. These tests are used in courts throughout the country and are more than 99% accurate.



IS THERE LEGISLATION THAT ALLOWS A FATHER TO REQUEST THE COURT TO VACATE A FINDING OF PARENTAGE?

ORC 3119.962 lists conditions for granting relief from a final judgment of paternity. The conditions listed include providing the Court with genetic testing results, from tests administered no more than six months prior to the filing of the Motion, demonstrating a zero percent probability that the person filing the Motion is the father of the child.

The statute provides that even if the person seeking relief signed an acknowledgement of paternity or if the person is the presumed legal father, the

person should not be denied the opportunity to file a Motion for relief from a paternity determination based on the acknowledgement or presumed paternity.

Two recent Court of Appeals decisions held certain legislation to be violations of the constitutional requirement for the separation of legislative and judicial powers. (Van Dusen v. Van Dusen and Poskarbiewicz v. Poskarbiewicz)

Generally speaking, a Court is the authorized power to

determine if it is in the best interest of a child to vacate a judgment establishing parentage. If such a judgment would be vacated, any support already paid would generally not be recovered, and any arrearage owed would remain collectable.

County Child Support Enforcement Agencies, whose attorneys represent the state, are expected to contest attempts to disestablish paternity, especially in cases where the child and parent have received benefits from the state.

IS A PERSON RECEIVING PUBLIC ASSISTANCE REQUIRED TO COOPERATE WITH THE CSEA?

In order to avoid sanctions, a person receiving public assistance is required to cooperate with the Child Support Enforcement Agency in establishing paternity and a

support order. There are exceptions for the claim of "good cause" if establishing an order would cause physical or emotional harm. Such a claim would need to be verified with

evidence from a law enforcement agency, court, medical office, child protective agency, social services agency, or other credible authority.

WHAT QUESTIONS WILL THE CSEA ASK DURING THE PATERNITY ESTABLISHMENT PROCESS?

Either a mother or a putative father may request services from a Child Support Enforcement Agency. Specific contact and employment information about the mother

and alleged father, as well as specific details about the relationship will be asked. Answers will be documented on a notarized form. Some questions are very personal in

nature but are required in the process of determining the existence or non-existence of a parent and child relationship.

WHAT PARTY DOES THE CSEA ATTORNEY REPRESENT?

The CSEA attorney represents the state of Ohio. No attorney-client relationship exists between the CSEA attorney and any individual party. The

CSEA attorneys have the responsibility to review cases for litigation, recommend appropriate legal proceedings, conduct pre-trial negotiation

and collection activities, and finalize proceedings and appropriate court orders.